IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

RP.No. 455 of 1997(E)

AGAINST THE JUDGEMENT/ORDER IN OP.8027/1997 Dated 18/08/1997
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REVIEW PETITIONER:2ND RESPONDENT:

C.MOHAMMED BASHEER,
CHOLAKKAL HOUSE,
WANDOOR P.O., MALAPPURAM DISTRICT.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS: PETITIONER & FIRST RESPONDENT IN OP:
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1. **THE DEPUTY GENERAL MANGER,**
   STATE BANK OF INDIA, ZONAL OFFICE,
   TRIVANDRUM.

2. **THE INDUSTRIAL TRIBUNAL, KOLLAM.**

BY

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

J.B. Koshy, J.

R.P. No. 455 of 1997 in O.P.No. 8027 of 1992 E

Dated this the 3rd day of December, 2007

Order

We see no ground to review the judgment. A review petition cannot be equated to an appeal petition or a petition for re-hearing. All points argued were considered while passing the judgment under review. Review petitioner who was unauthorisedly absent for nine years was ordered to be reinstated with full back-wages by the Industrial Tribunal after holding that termination of service was illegal. The award was modified on the facts of the case and following relief was granted:

> "Considering the facts and circumstances of the case and pleadings herein the award is modified and second respondent may be reinstated in service with effect from 1.9.1997 without back-wages or other benefits, but, with continuity in service for the purpose of gratuity and notional fixation of salary."

Petitioner wants that the period he was out of employment should be calculated for pension. Such a relief was not granted. He cannot enjoy pensionary benefits for the period of unauthorised absence. We make it clear that for the purpose of pension, the period he was out of employment need not be taken into account, but, previous period of actual service before his termination of service and service after

reinstatement shall be taken into account for calculation of pension. In other words, his pension should not be denied for the period of actual service rendered by him before termination of service considering his termination of service as break in service and the service rendered by him before termination and service after reinstatement alone need be calculated for pension. With this clarification, the R.P. is disposed of.

J.B.Koshy
JUDGE

vaa

J.B. KOSHY, J.

R.P. No.455/97 in
O.P.No.8027/92 E

Order

Dated:3rd December, 2007